LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 89 LCA 1975

Bangalore, dated 23rd/24th October 1975

Ordered that the Voluntary Disclosure of Income and Wealth Ordinance, 1975 (No. 15 of 1975) published in Part II, Section 1 of the *Gazette of India*, Extraordinary dated 8th October 1975 be republished in the *Karnataka Gazette* for general Information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,
Under Secretary to Government,
Deptt. of Law and Parly. Affairs.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 8th October, 1975/Asvina 16, 1897 (Saka)

THE VOLUNTARY DISCLOSURE OF INCOME AND WEALTH ORDINANCE, 1975.

No. 15 OF 1975

Promulgated by the President in the Twenty-sixth Year of the Republic of India.

An Ordinance to provide for voluntary disclosure of income and wealth and for matters connected therewith or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Voluntary Disclosure of Income and Wealth Ordinance, 1975.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. *Definitions.*—In this Ordinance, unless the context otherwise requires,—

(a) (i) "Income-tax Act" means the Income-tax Act, 1961 (43 of 1961);

(ii) "Wealth-tax Act" means the Wealth-tax Act, 1957 (27 of 1957);

(b) all other words and expressions used in this Ordinance but not defined and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

3 *Charge of income-tax on voluntarily disclosed income.*—(1) Subject to the provisions of this Ordinance, where any person makes, on or after the date of commencement of this Ordinance but before the 1st day of January, 1976, a declaration in accordance with the provisions of Section 4 in respect of any income chargeable to tax under the Indian Income-tax Act, 1922 (11 of 1922) or the Incometax Act for any assessment year.—

(*a*) for which he has failed to furnish a return under Section 139 of the Income-tax Act, or

(*b*) which he has failed to disclose in a return of income furnished by him under the Income-tax Act before the date of commencement of this Ordinance, or

(*c*) which has escaped assessment by reason of the omission or failure on the part of such person to make a return under either of the said Acts or to disclose fully and truly all material facts necessary for his assessment or otherwise,

then, notwithstanding anything contained in the said Acts or in any Finance Act, income-tax shall be charged in respect of the income so declared (such income hereinafter referred to as the voluntarily disclosed income) at the rate or rates specified in the Schedule to this Ordinance.

(2) Nothing contained in sub-section (1) shall apply in relation to—

(i) the income assessable for any assessment year for which a notice under section 139 or section 148 of the

Income tax Act has been served upon such person and the return has not been furnished before the commencement of this Ordinance.

(ii) where any books of account, other documents, money, bullion, jewellery or other valuable articles or things belonging to the person making the declaration under sub-section (1) (hereafter in this section, in sections 4 to 13 and in the Schedule to this Ordinance referred to as the declarant) have been seized as a result of any search under section 132 of the Income-tax Act or under section 37A of the Wealth-tax Act, the income in respect of the previous year in which such search was made or any earlier previous year.

(3) In addition to the amount of income tax to be paid under sub-section (1), the declarant shall invest a sum equal to five per cent of the amount of the voluntarily disclosed income in such securities as the Central Government may notify in this behalf in the Official Gazette.

4. Particulars to be furnished in declaration :—(1) The declaration under sub-section (1) of section 3 shall be made to the Commissioner and shall be in such form and shall be verified in such manner as may be prescribed by rules made by the Board.

(2) The declaration shall be signed.—

(a) where the declarant is an individual, by the individual himself ; where such individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf ; and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf ;

(b) where the declarant is a Hindu undivided family, by the *karta*, and where the *karta* is absent from India, or is mentally incapacitated from attending to his affairs, by any other adult member of such family :

(c) where the declarant is a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to sign the

declaration or where there is no managing director, by any director thereof;

(d) where the declarant is a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to sign the declaration, or where there is no managing partner as such, by any partner thereof, not being a minor ;

(e) where the declarant is any other association by any member of the association or the principal officer thereof ; and

(f) where the declarant is any other person, by that person or by some person competent to act on his behalf.

(3) Any person who has made a declaration under sub-section (1) of Section 3 in respect of his income, or as a representative assessee in respect of the income of any other person, shall not be entitled to make any other declaration under that sub-section in respect of his income or, as the case may be, the income of such other person, and any such other declaration, if made, shall be deemed to be void.

5. *Time for payment of income tax and for investment in notified securities* :—(1) Subject to the provisions of sub-section (2), the income-tax payable under this Ordinance in respect of the voluntarily disclosed income shall be paid by the declarant before making the declaration and the declaration shall be accompanied by proof of payment of such tax.

(2) If the Commissioner is satisfied, on an application made in this behalf by the declarant, that the declarant is unable, for good and sufficient reasons, to pay the full amount of income-tax in respect of the voluntarily disclosed income in accordance with sub-section (1), he may extend the time for payment of the amount which remains unpaid or allow payment thereof by instalments if the declarant furnishes adequate security for the payment thereof; so, however, that an amount which is not less than

one-half of the amount of income-tax payable in respect of the voluntarily disclosed income shall be paid on or before the 31st day of March, 1976 and the remainder, if any, on or before the 31st day of March, 1977.

(3) A declarant shall not be considered to have furnished adequate security for the purposes of sub-section (2), unless—

(i) at least one-half of the unpaid amount is guaranteed by a scheduled bank or secured by an assignment made by the declarant in favour of the President of India of any security of the Central or a State Government; and.

(ii) in respect of the remainder, if any, the declarant furnishes security in such form and in such manner as the Commissioner may, in his discretion, direct.

Explanation.—For the purposes of this sub-section,—

(a) where an assignment of Government securities is made in favour of the President of India, the amount covered by such assignment shall be the market value of the securities on the date of the assignment;

(b) "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, 38 of 1959 a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, 5 of 1970 or any other bank, being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934.)

(4) The investment in the securities referred to in sub-section (3) of section 3 shall be made by the declarant within thirty days from the date on which the declaration is made by him under sub-section (1) of that section.

6. *Interest payable by declarant.*—If the amount of income-tax payable in respect of the voluntarily disclosed income is not paid on or before the 31st day of March

1976, the declarant shall be liable to pay simple interest at twelve per cent per annum on the amount remaining unpaid from the 1st day of April 1976 to the date of payment and the provision of the Income-tax Act and the rules made thereunder shall, so far as may be, apply as if the interest payable under this section were interest payable under sub-section (2) of section 220 of that Act.

7. *Mode of recovery.*—(1) If the declarant fails to pay the income-tax in respect of the voluntarily disclosed income within the time allowed under sub-section (2) of section 5 or to invest the amount reqired to be invested in the securities referred to in sub-section (3) of section 3 within the time specified in sub-section (4) of section 5, the declarant shall be deemed to be in default.

(2) The provisions contained in sections 221 to 227, 229 231 and 232 of the Income-tax Act and the Second and Third Schedules to that Act and any rules made thereunder shall, so far as may be, apply as if the said provisions were provisions of this Ordinance and referred to income-tax and sums payble by way of penalty and interest under this Ordinance instead of to tax and sums by way of penalty and interest payable under that Act and to the declarant instead of to the assessee.

(3) Any arrears in respect of the amount required to be invested by the declarant in the securities referred to in sub-section (3) of section 3 shall be recoverable in accordance with the provisions of sub-section (2) as if such arrears were arrears of income-tax and the amount so recovered shall be utilised for the purchase of such securities in the name of the declarant.

8. *Voluntarily disclosed income not to be included in the total income* :—(1) The amount of the voluntarily disclosed income shall not be included in the total income of the declarant for any assessment year under the Indian Income-tax Act, 1922 (11 of 1922) or the Income-tax Act, or the excess Profits Tax Act, 1940 (15 of 1940) or the Business Profits Tax Act, 1947 (21 of 1947) or the Super

Profits Tax Act, 1963 (14 of 1963) or the companies (profits) Surtax Act, 1964, (7 of 1964) if,—

(i) the declarant credits such amount in the books of account, if any, maintained by him for any source of income or in any other record, and intimates the credit so made to the Income-tax Officer;

(ii) the income-tax in respect of the voluntarily disclosed income is paid by the declarant; and

(iii) the amount required to be invested in the securities referred to in sub-section (3) of section 3 is so invested by the declarant.

(2) The Commissioner shall on an application by the declarant, grant a certificate to him setting forth the particulars of the voluntarily disclosed income, the amount of income-tax paid in respect of the same, the amount of investment made in the securities referred to in sub-section (3) of section (3) and the date of payment and investment.

9. Voluntarily disclosed income not to affect finality of completed assessments, etc.—The declarant shall not be entitled, in respect of the voluntarily disclosed income or any amount of income-tax Paid there on, to reopen any assessment or reassessment made under any of the Acts mentioned in sub-section (1) of section 8 or claim any set off or relief in any appeal, reference or other proceeding in relation to any such assesment or reassessment.

10. Income-tax in respect of voluntarily disclosed income not refundable.—Any amount of income-tax paid in pursuance of a declaration made under sub-section (1) section 3 shall not be refundable in any circumstances.

11. Declaration not admissible in evidence against declarant.—Notwithstanding anything contained in any other law for the time being in force, nothing contained in any declaration made under sub-section (1) of section 3 shall be admissible in evidence against the declarant for the purpose of any proceeding relating to imposition of penalty or for the purposes of prosecution under any of the

Acts mentioned in sub-section (1) of section 8 or the Wealth-tax Act.

12. Secrecy of declaration.—(1) All particulars contained in a declaration made under sub-section (1) of section 3 shall be treated as confidential and, notwithstanding anything contained in any law for the time being in force no court or any other authority shall be entitled to require any public servant or the declarant to produce before it any such declaration or any part thereof or to give any evidence before it in respect thereof.

(2) No public servant shall disclose any particulars contained in any such declaration except to any officer employed in the execution of any of the Acts mentioned in sub-section (1) of section 8, or the Wealth-tax Act, or to any officer appointed by the Comptroller and Auditor-General of India or the Board to audit income-tax receipts or refunds.

13. Exemption from wealth-tax in respect of assets specified in declaration.—(1) Where the voluntarily disclosed income is represented by cash (including bank deposits), bullion, investment in shares, debts due from other persons, commodities or any other assets specified in the declaration made under sub-section (1) of section 3.—

(*a*) in respect of which the declarant has failed to furnish a return under section 14 of the Wealth-tax Act for the assessment year commencing on the 1st day of April, 1975 or any earlier assessment year or years, or

(*b*) which have not been shown in the return of net wealth furnished by him for the said assessment year or years, or

(*c*) which have been understated in value in the return of net wealth furnished by him for the said assessment year or years,

then notwithstanding anything contained in the Wealth-tax Act,—

(*i*) wealth-tax shall not be payable by the declarant in respect of the assets referred to in clause (*a*) or clause (*b*)

and such assets shall not be included in his net wealth for the said assessment year or years :

(*ii*) the amount by which the value of the assets referred to in clause (*c*) has been understated in the return of net wealth for the said assessment year or years, to the extent such amount does not exceed the voluntarily disclosed income utilised for acquiring such assets, shall not be taken into account in computing the net wealth of the declarant for the said assessment year or years.

(2) The provisions of sub-section (1) shall not apply unless the conditions specified in sub-section (1) of section 8 or fulfilled by the declarant.

(3) All words and expressions used in this section and in section 15 but not defined and defined in the Wealth-tax Act shall have the meanings respectively assigned to them in that Act.

14. Disclosure of income in cases of search and seizure.—(1) Subject to the provisions of this section, where any books of account, other documents, money, bullion jewellary or other valuable articles or things belonging to a person have been seized as a result of a search under section 132 of the Income-tax Act or section 37A of the Wealth-tax Act and such person, (hereafter in this section referred to as the declarant) makes, on or after the date of commencement of this Ordinance but before the 1st day of January 1976 a declaration in accordance with sub-section (2) in respect of any income relating to the previous year in which such search was made or any earlier previous year—

(*a*) for which he has failed to furnish a return under section 139 of the Income-tax Act, or

(*b*) which he has failed to disclose in a return of income furnished by him under the Income-tax Act before the commencement of this Ordinance, or

(*c*) which has escaped assessment by reason of the omission or failure on the part of such person to make a return under the Indian Income-tax Act, 1922, (11 of 1922) or the Income-tax Act or to disclose fully and truly all material facts necessary for his assessment or otherwise,

then, notwithstanding anything contained in any of the Acts mentioned in sub-section (1) of section 8 or the Wealth-tax Act, the amount of income so declared or, as the case may be, the value of the assets representing such income, shall not be taken into account for the purposes of—

(*i*) payment of interest by the declarant under sub-section (8) of section 139 of the Income-tax Act;

(*ii*) payment of interest by the declarant under section 215 or section 217 of the Income-tax Act or the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922);

(*iii*) imposition of penalty on the declarant under the provisions of any of the said Acts, except under section 221 of the Income-tax Act or the corresponding provisions of any of the other said Acts; and

(*iv*) prosecution of the declarant under the provisions of any of the said Acts.

(2) The declaration under sub-section (1) shall be made to the Commissioner and shall be in such form and shall be verified in such manner as may be prescribed by Rules made by the Board.

(3) A declaration under this section shall be signed by the person specified in sub-section (2) of section 4 as if the declaration had been made under that section.

(4) A copy of the declaration made by the declarant under sub-section (1) shall be forwarded by the Commissioner to the Income-tax Officer and the information contained therein may be taken into account for the purposes of the proceedings relating to assessment or reassessment of the income of the declarant under the provisions of any of the Acts mentioned in sub-section (1) of section 8 of the Wealth-tax Act.

(5) The immunity provided under sub-section (1) shall not be available to the declarant unless the tax chargeable in respect of the income of the previous year or years for which the declaration has been made is paid by the declarant in accordance with the provisions of section 5.

Explanation.—For the purposes of this sub-section, tax chargeable in respect of the income of any previous year for which the declaration is made shall be,—

(*a*) where the declarant has not furnished a return in respect of the total income of that year and no assessment has been made in respect of the total income of that year, the tax payable on the income declared under sub-section (1) for that year as if such income were the total income :

(*b*) where the declarant has furnished a return in respect of the total income of that year and no assessment has been made in pursuance of such return, the tax payable on the aggregate of the total income returned and the income declared under sub-section (1) for that year as if such aggregate were the total income as reduced by the tax payable on the basis of the total income returned : and

(*c*) where an assessment in respect of the total income of that year has been made, the tax payable on the aggregate of the total income as assessed and the income declared under sub-section (1) for that year as if such aggregate were the total income as reduced by the tax payayle on the besis of the total income as assessed.

(6) Where any tax is paid by the declarant in accordance with the provisions of Section 5 read with sub-section (5) of this section credit therefor shall be given to the declarant in the assessment made under the Indian Income-tax Act, 1922, (11 of 1922) or as the case may be the Income-tax Act in respect of his total income of the previous year or years.

(7) Nothing in sub-section (1) shall apply in relation to any income which has been included in the total income of the declarant in any assessment made by the Income-tax Officer before the date on which the declaration under that sub-section is made.

15. Voluntary disclosure of wealth. (1).—Subject to the provisions of this section, where any person makes, on or after the date of commencement of this Ordinance but

before the 1st day of January, 1976, a declaration in respect of—

(*a*) the net wealth chargeable to wealth-tax for any assessment year for which he has failed to furnish a return under section 14 of the Wealth-tax Act; or

(*b*) the value of the assets which has not been disclosed, or the value of the assets which has been understated, in any return of net wealth for any assessment year,

then, notwithstanding anything contained in that Act, the net wealth, or, as the case may be, the value so declared, shall not be taken into account for the purposes of any proceedings relating to imposition of penalty on the person making the declaration under this sub-section (hereafter in this section referred to as the declarant) or for the purposes of the prosecution of the declarant under that Act:

Provided that—

(i) nothing in clause (a) shall apply in relation to the net wealth assessable for any assessment year for which a notice under section 14 or section 17 of that Act has been served upon the declarant before the commencement of this Ordinance;

(ii) nothing in clause (b) shall apply in relation to so much of the value of such assets as has been assessed in any assessment for the relevant assessment year made by the Wealth-tax Officer before the date on which the declaration under this sub-section is made.

(2) The declaration under sub-section (1) shall be made to the Commissioner and shall be in such form and shall be verified in such manner as may be prescribed by rules made by the Board.

(3) A declaration under sub-section (1) shall be signed by the person specified in sub-section (2) of section 4 as if the declaration had been made under that section.

(4) A copy of the declaration made by the declarant under sub-section (1) shall be forwarded by the Commi-

ssioner to the Wealth-tax Officer and the information contained therein may be taken into account for the purposes of the proceedings relating to assessment or reassessment of the net wealth of the declarant under the provisions of the Wealth-tax Act.

(5) The immunity provided under sub-section (1) shall not be available to the declarant unless the wealth-tax chargeable in respect of the net wealth for the assessment year or years for which the declaration has been made is paid by the declarant in accordance with the provisions of section 5 and the declarant invests in the securities referred to in sub-section (3) of section 3 within the time specified in sub-section (4) of section 5 the sum specified in sub-section (6) of this section.

Explanation.—For the purposes of this sub-section, wealth-tax chargeable in respect of the net wealth for any assessment year for which the declaration is made shall be,—

(a) in a case falling under clause (a) of sub-section (1), the wealth-tax payable in respect of the net wealth declared under that clause for that year ;

(b) in a case falling under clause (b) of sub-section (1),—

(i) where no assessment has been made in pursuance of the return of net wealth furnished by the declarant, the wealth-tax payable on the aggregate of the net wealth returned and the value declared under that clause for that year as if such aggregate were the net wealth, as reduced by the wealth-tax payable on the basis of the net wealth returned ;

(ii) where an assessment has been made in pursuance of the return of net wealth furnished by the declarant, the wealth-tax payable on the aggregate of the net wealth as assessed and the value declared under that clause for that year as if such aggregate were the net wealth, as reduced by the wealth-tax payable on the net wealth as assessed.

(6) The sum referred to in sub-section (5) shall be,—

(a) where the declaration has been made in respect of one assessment year a sum equal to two and a half per cent of the amount of net wealth declared under clause (a) of

sub-section (1), or, as the case may be, the value declared under clause (b) of that sub-section;

(b) where the declaration has been made in respect of more than one assessment year, a sum equal to two and a half per cent of the net wealth declared under clause (a) of sub-section (1), or, as the case may be the value declared under clause (b) of that sub-section, in respect of the last of such assessment years.

(7) Where any wealth-tax is paid by the declarant for any assessment year in accordance with the provisions of section 5, read with sub-section (5) of this section, credit therefor shall be given to the declarant in the assessment made under the Wealth-tax Act for that year.

16. Applicability of Chapter XV of Income-tax Act and Chapter V of Wealth-tax Act.—The provisions of Chapter XV of the Income-tax Act relating to liability in special cases or of Chapter V of the Wealth-tax Act relating to liability to assessment in special cases shall, so far as may be apply in relation to proceedings under this Ordinance as they apply in relation to proceedings under the Income-tax Act or, as the case may be, the Wealth-tax Act.

17. Removal of doubts.—For the removal of doubts, it is hereby declared that nothing contained in this Ordinance shall be construed as conferring any benefit concession or immunity on any person other than the person making the declaration under this Ordinance.

18. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order, not inconsistent with the provisions of this Ordinance, remove the difficulty.

(2) Every order made under this section shall be laid before each House of Parliament.

19. Power to make rules.—(1) The Board may, by notification in the Official Gazette, make rules for carrying out the provisions of this Ordinance.

(2) The Central Government shall cause every rule made under this Ordinance to be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may comprise in one session or in two or more successive sessions and if before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, that rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

20. Provisions of Ordinance not to apply to certain persons.—The provisions of this Ordinance shall not apply to any person in respect of whom an order of detention has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974: 52 of 1974.

Provided that—

(i) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board; or

(ii) such order of detention, being an order to which the provisions of Section 9 of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of the review under sub-section (3) of Section 9, or on the report of the advisory Board under section 8, read with sub-section (2) of Section 9, of the said Act, or

(iii) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of the first review under sub-section (3) of that section or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A of the said Act; or

(iv) such order of detention has not been set aside by a court of competent jurisdiction.

THE SCHEDULE

[See *section 3(1)*]

Rates of income-tax

(a) In the case of a declarant, being a company at the rate of 60 per cent of the voluntarily disclosed income.

(b) In the case of a declarant, being a person other than a company,—

(1) Where the voluntarily disclosed income does not exceed Rs. 25,000	25 per cent. of the voluntarily disclosed income;
(2) where the voluntarily disclosed income exceeds Rs. 25,000 but does not exceed Rs. 50,000	Rs. 6,250 *plus* 40 per cent. of the amount by which the voluntarily disclosed income exceeds Rs. 25,000,
(3) where the voluntarily disclosed income exceeds Rupees 50,000	Rs. 16250 *plus* 60 per cent. of the amount by which the voluntarily disclosed income exceeds Rs. 50,000

FAKHRUDDIN ALI AHMED,
President,

K. K. SUNDARAM,
Secretary to the Government of India.

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